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United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

INTERMUNE, INC.,

Defendant.

NOTICE OF RELATED CASES

CR 06-0707 MHP

UNITED STATES OF AMERICA,

Plaintiff,

v.

W. SCOTT HARKONEN,

Defendant.

CR 08-0164 CRB

The United States, by and through the above counsel of record, hereby submits this Notice of Related Case pursuant to Criminal Local rule 8-1. The United States contends that the criminal case against defendant W. Scott Harkonen (CR 08-0164 CRB) is related to the prior criminal case against defendant InterMune, Inc. (CR 06-0707 MHP) because they concern the same

1 alleged events, occurrences, transactions.

2 On October 26, 2006, the United States filed an Information, CR 06-0707 JSW, later changed
3 to CR 06-0707 MHP, charging InterMune, Inc. with one felony count of violating the Food,
4 Drug, and Cosmetic Act (21 §§ 331(k) and 333(a)(2)) by promoting its drug Actimmune
5 (Interferon gamma-1b) for the treatment of idiopathic pulmonary fibrosis, a condition for which
6 it was not approved by FDA, while the drug was held for sale after shipment in interstate
7 commerce. InterMune, Inc. entered into a deferred prosecution agreement which was approved
8 by the Court on or about December 4, 2006.

9 W. Scott Harkonen is the former Chief Executive Officer and board member of InterMune,
10 Inc., and held those positions during the period of time at issue in the information filed against
11 InterMune, Inc., August 2002 through January 2003.

12 On March 18, 2008, the grand jury indicted defendant W. Scott Harkonen on one count of
13 wire fraud (18 U.S.C. § 1343) and one felony count of violating the Food, Drug, and Cosmetic
14 Act (21 U.S.C. §§ 331(k), 333(a)(2) and 352(a)) related to his role in the creation and
15 dissemination of false and misleading information about the efficacy of Actimmune as a
16 treatment for idiopathic pulmonary fibrosis. The time period at issue in the counts against
17 defendant Harkonen is August 2002 through June 2003.

18 These matters are related because the cases center around substantially the same alleged
19 conduct involving defendant InterMune, Inc. and its former CEO, defendant W. Scott Harkonen.
20 Accordingly, the assignment of the most recent case to the same judge who has handled the other

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28 NOTICE OF RELATED CASES
CR 06-0707 MHP; CR 08-0164 CRB

1 related proceeding would conserve judicial resources and promote an efficient determination of
2 the criminal matter pursuant to Criminal Local rule 8-1(c)(4).

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4 DATED: March 18, 2008

Respectfully submitted,

5 BRIAN J. STRETCH
6 Acting United States Attorney

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8 /S/
9 IOANA PETROU
Assistant United States Attorney